IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HONOURABLE SRI JUSTICE C. V. RAMULU

Writ Petition No.5085 of 2000

Dated: 23-08-2006

Between:

K. Venkateswarlu, S/o Ramachandraiah,
aged 66 years, r/o Gandhi Road, Ongole,
Prakasam District.

... Petitioner

and

1. A. P. State Financial Corporation,
incorporated under SFCs Act LXIII of 1951,
having its Head Office at 15-9-194,
Chirag Ali Lane, Hyderabad – 500 001,
represented by its Managing Director and another.

...
Respondents

ORDER:

This writ petition is filed seeking *mandamus* to declare the action of the respondents in issuing a public notification in Eenadu daily on

18-01-2000 notifying the property bearing Plot No.16/A in S.No.164/3, situated at Kurnool Road, Ongole, as arbitrary and illegal.

2. It appears the petitioner is one of the Directors of M/s. Prakasam Bottling Company, Medarametla. As early as on 29-07-1982 a loan of Rs.20,71,000/- was advanced to the said company. When the company failed to pay the amounts after issuing notice, the loan was rescheduled on 25-09-1992. Even thereafter, the instalments were not properly paid. According to the petitioner, the company paid an amount of

Rs.53,36,349-60 ps. before the company was sold on 05-07-1997.

An amount of Rs.18,45,000/- was realized by way of sale of the Bottling company on 05-07-1997 and the same was adjusted towards the dues of the company. Thereafter, a notice dated 31-03-1998 was issued by the respondents stating that there is some more amount due to be paid, therefore, they proposed to proceed against the properties of the petitioner pledged for the loan availed by the company. The petitioner gave a reply on 13-01-2000 denying the allegations. Ultimately, the impugned notification dated 18-01-2000 was issued proposing to auction the schedule property.

3. It is the contention of the learned Counsel for the petitioner that as per the re-schedule of the loan amount as on 25-09-1992, the company was due only an amount of 17 lakhs and odd and an amount of Rs.18,45,000/- was realized by way of sale of the company**.** Once the said amount is adjusted towards the re-schedule amount dated 25-09-1992 absolutely there is nothing to be paid by the company. Therefore, the action of the respondents Corporation in issuing notification for auction of the property of petitioner is arbitrary and illegal.

4. The respondents filed a detailed counter affidavit denying the allegations made in the affidavit filed in support of the writ petition. It is asserted that as on the date of sale of the company i.e. on 05-07-1997

an amount of Rs.14,00,000/- towards principal and an amount of Rs.20,00,000/- and odd towards interest was due. Therefore, after adjusting the sale amount of the company on 05-07-1997 i.e. Rs.18,45.000/- the company is still due an amount of Rs.18,00,000/- and above. Therefore, the notice dated 31-01-2000 was issued and thereafter the impugned auction was sought to be conducted.

5. In this regard, the learned Counsel for the petitioner has produced the original record showing that the amount realized by way of sale on
05-07-1997 i.e. Rs.18,45,000/- was adjusted towards the principal and after adjustment of the same, still an amount of Rs.18 lakh and odd was due towards principal and thereafter the accumulation of interest thereon till the date of issuance of notice on 13-01-2000.

6. A perusal of the record would indicate that as on 05-07-1997, there was outstanding balance amount of Rs.14,45,112/- (Rs.14,45,111-90 ps.) towards principal and an amount of Rs.23,05,475/- towards interest as on 30-04-1997. These all indicate that the amount due as on 05-07-1997 is more than Rs.36 lakhs. Under those circumstances, I am of the view that no case is made out to show that the entire loan amount was discharged on the sale of the company on 05-07-1997, and the petitioner is being proceeded with unnecessarily without any basis. The writ petition is devoid of merits and is liable to be dismissed.

7. In the result, the writ petition is dismissed. No costs.

However, the petitioner is permitted to file an appropriate representation within two weeks from the date of receipt of a copy of this order before the first respondent and the same shall be entertained for the purpose of considering the case of the petitioner “for one time settlement”. Till such time, the respondents shall not give effect to the

impugned notification.

JUSTICE C. V. RAMULU

Dt.23-08-2006
Note: Issue C.C. by 25-08-2006.
B/o
GLV